S.B.CIVIL WRIT PETITION NO.4533/1994.

10.08.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.M.M.Ranjan]
Mr.O.P.Mishra]for the petitioners.

Mr.Y.K.Sharma]
Mr.Rakesh Jain]for the respondent No.1.
Mr.V.K.Tamoliya]
Mr.Mohit Gupta] for the respondent No.2.

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This writ petition has been filed by the petitioners challenging the order Annexure-1 dated 20.09.1993 and Annexure-3 dated 24.12.1993 passed by the Press Council of India by which the complaint against the petitioners has been found to be correct and the Press Council of India decided to censure the petitioner No.1 which is a Hindi Daily, Evening, Edition being published from Jaipur.

The submission of the petitioners is that no opportunity of hearing was given to the petitioners as has been mentioned in para No.8 of the writ petition, inasmuch as, no notices were served upon the petitioners before the orders were passed against the petitioners. To the aforesaid averments made by the petitioners, respondent No.1 has submitted its reply wherein at para No.4 it has been submitted that show cause notices were issued to the petitioners under registered A/D and the same were served upon the petitioners and the A/D (Annexure-R/2) has been filed along with the reply. The A/D (Annexure-R/2) bears signatures of the petitioner.

To the aforesaid reply which has been submitted by the respondent No.1, the petitioner has not filed any rejoinder denying the averments made in para No.4 of the reply.

In view of the above, since the averments made in the reply and the document (Annexure-R/2) have not been controverted, there remains no escape from the fact that the summons were sent by the respondent No.1 Press Council of India and were received at the address of the petitioner which bears acknowledgment and these facts mentioned in the reply have not been disputed by means of any rejoinder.

Thus, so far as the submission of the learned counsel for the petitioner that opportunity of hearing was not given to the petitioner and that no summons or notices were given to the petitioners is concerned, the same is devoid of any force.

The petitioner has then contended that sub-section (3) of Section 14 of the Press Council Act, 1978 specifically prohibits the council from holding an inquiry into a matter, in any manner, in respect of which any proceeding is pending in the court of law. Sub-section (3) of Section 14 of Press Council Act, 1978 reads as under:-

> “(3) Nothing in sub-section (1) shall be deemed to empower the Council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of law.”

It is submitted that in respect of the matter pertaining to the defamation of the complainant, the complainant had filed a suit for damages on account of defamation on account of publication made by the petitioner. The copy of the plaint has been filed as Annexure-8. It is submitted that since the matter was sub-judice before the civil court, the Press Council of India had no jurisdiction to entertain the complaint.

The submission of the learned counsel for the respondent is that Section 14(3) of the Press Council Act is not at all attracted, in the facts and circumstances of the case, even though, the present complaint is in relation to the publication made on 28.09.1992 which is also the subject matter which is under consideration before the civil court but so far as the complainant in the instant case, non-petitioner No.2 Smt.Sudha Rani Agarwal, is concerned, she has not filed any suit. The complaint to which the reference has been made in the Annexure-8 is of the suit filed by Agarwal Shiksha Samiti as plaintiff No.2 and the Damodar Prasad as plaintiff No.1 and Smt.Sudha Rani is not a party to that suit, as such, no matter is sub-judice in the court of law or pending inquiry in a court of law at the behest of the complainant.

Having heard learned counsel for the parties and having gone through the record, it is clear that the instant complaint was in respect of the issue published on 28.09.1992 to which reference has been made in para 12 of the complaint (Annexure-8), however, so far as the

suit is concerned, it is correct that same has not been filed by Smt.Sudha Rani. In such a situation, in my opinion, where the present complainant is not a party to the civil suit, and the proceedings before the court of law are not pending at her behest, nothing would prevent the Press Council of India from holding an inquiry on the basis of the complaint filed by the non-petitioner No.2. The non-petitioner No.2 is the person aggrieved in her own right and has chosen a forum in respect of the publication made in the issue of 28.09.1992 by invoking the provisions of the Act of 1978, therefore, the Press Council of India, in my opinion was not debarred from holding the inquiry as no matter relating to her complaint was pending before the court. This court is concerned with the publications of the dates mentioned in the suit qua the deformation of the plaintiffs and not seized of the grievance raised by the complainants Smt.Sudha Rani who did not close to go to the court seeking any relief of damages for any defamatory statement/publication made against her.

Thus, even though the publication dated 28.09.1992 is common both in the suit before the court and the complaint to the Press Council but since the complainant is not the party before the court the court is not required to adjudicate whether any portion of the publication made on 28.09.1992 is defamatory qua the complainant Smt.Sudha Rani or whether she has to be paid any compensation. The court shall decide the matter relating to the defamatory statements made qua the plaintiffs alone and not against the complainant. As such, the subject matter cannot be said to be the same so

as to attract the bar of sub-section (3) of Section 14.

Consequently, this writ petition is dismissed. In the facts and circumstances, there shall be no order as to costs.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.